

Exhibit A

DECLARATION OF JASON J. FLEISCHER

Plaintiffs Rover Pipeline, LLC and Energy Transfer LP respectfully provide the following declaration:

1. My name is Jason J. Fleischer. I am over the age of 18 years and am fully competent to make this declaration. I am one of the attorneys for Plaintiffs Rover Pipeline, LLC and Energy Transfer LP and am authorized to make this declaration on its behalf. I have personal knowledge of the facts stated herein.
2. At approximately 5:00 PM EDT on Wednesday, June 14, 2023, the Federal Energy Regulatory Commission (the “Commission” or “FERC”) issued its “Order on Presiding Officer Reassignment” in *Rover Pipeline, LLC et al.*, FERC Docket No. IN19-4-000 (the “Reassignment Order”). Just prior, at approximately 4:35 PM EDT on Wednesday, June 14, 2023, the Commission issued its “Order on Presiding Officer Reassignment and Providing Further Direction” in *TotalEnergies Gas & Power North America, Inc. et al.*, FERC Docket No. IN12-17-000. The first time that the undersigned counsel was aware of either of the Commission orders was when they were issued.¹
3. On Wednesday, June 14, 2023 at 5:12 PM EDT, about twelve minutes after the Commission issued the Reassignment Order, Defendants’ counsel emailed Plaintiffs’ counsel and stated that Defendants “plan to file a motion tomorrow asking for clarification or for Judge Scholer to lift the stay for the limited purpose of allowing reassignment.” Defendants’ counsel requested Plaintiffs’ “position on this limited motion.” Defendants in the *TotalEnergies* proceeding made a similar request in that case.
4. Plaintiffs’ counsel in this *Rover* case responded the next day, Thursday, June 15, 2023 at 12:54 PM EDT and requested that Defendants: (a) delay filing their motion to early the following week after the upcoming federal Juneteenth holiday weekend and (b) provide a copy of their motion “to allow for meaningful consultation before plaintiffs take a position.” A similar email was sent at about the same time to Defendants’ counsel in *TotalEnergies*.
5. At approximately 3:06 PM EDT on Thursday, June 15, 2023, Defendants’ counsel in *TotalEnergies* emailed Plaintiffs’ counsel in both cases. Defendants’ counsel in *TotalEnergies* stated that the Department of Justice had “an obligation to inform the Courts of the Commission’s orders as soon as possible. Tomorrow is therefore the latest that we

¹ The undersigned counsel and his colleagues represent Plaintiffs in the two referenced cases. Similarly, FERC is represented in both cases by the Department of Justice, and has at least one overlapping counsel in both cases. See *TotalEnergies Gas & Power N.A., Inc. v. FERC*, No. 4:22-cv-04318 (S.D. Tex.) pending before Judge Drew Tipton.

can file these motions.” Defendants’ counsel agreed to delay until “mid-day tomorrow” before filing, *i.e.*, mid-day on Friday, June 16, 2023.

6. At approximately 7:17 PM EDT on Thursday, June 15, 2023, Plaintiffs’ counsel requested to have a meet-and-confer call in *Rover* between 2 and 3 PM EDT on Friday, June 16, 2023. Plaintiffs’ counsel again asked Defendants’ counsel “for a draft of your proposed motion given the short time here for a meet and confer.”
7. On Thursday, June 15, 2023 at 10:35 PM EDT, Defendants’ counsel in *Rover* agreed to a meet and confer by Zoom teleconference on Friday, June 16, 2023 at 2 PM EDT. Defendants’ counsel stated that Defendants planned to file their motion on Friday, June 16, 2023, after the call with Plaintiffs, “to bring this to the court’s attention before it gets too late in the day.” Defendants’ counsel also included with this email a draft of a proposed order, but not a draft of the motion to which that proposed order would be attached.
8. Counsel for the parties conferred by Zoom teleconference on Friday, June 16, 2023 at 2:00 PM EDT (the “Conference”), immediately following a similar conference between Plaintiffs and Defendants in the *TotalEnergies* case at 1:00 PM EDT.
9. Defendants did not provide a draft of their motion before the Conference or at any time prior to filing.
10. During the Conference, Defendants’ counsel confirmed that they were aware that Plaintiffs’ counsel had similarly conferred with Defendants’ counsel in *TotalEnergies* an hour prior, and explained that based on their discussion with the Defendants’ counsel in *TotalEnergies*, Plaintiffs’ counsel would not hear much different from Defendants’ counsel in this case.
11. During the Conference, Plaintiffs’ counsel sought information regarding: (a) the purpose and timing of FERC’s June 14 order and the proposed motion, (b) the practical effect, if any, of the proposed motion and the scope of the proposed relief, and (c) the reason for the rushed timing of the proposed motion.
12. Defendants’ counsel stated that they were following instructions from their clients to file the proposed motion and did not have further information about the purpose or timing of the Reassignment Order. Defendants’ counsel explained that the purpose of the motion was to establish that no violation of this Court’s stay had occurred and to allow the reassignment of the Administrative Law Judge to occur. When asked why Defendants desired to seek this relief, rather than simply notifying the court of the existence of the order and stating that it would only take effect if and when the Court lifts its stay, Defendants’ counsel stated that their clients had instructed them to take this course of action, and that FERC wanted to move its in-house proceeding forward expeditiously.
13. Plaintiffs specifically asked what, if anything, a reassigned FERC ALJ would do if the Court granted the requested relief. Defendants’ counsel stated that they could not speak to what work an ALJ might or might not do once the reassignment took place, but that the

ALJ would comply with the stay. As to why Defendants intended to file their Motion on such an expedited basis, counsel explained that Defendants sought to make this Court aware of the Reassignment Order as soon as possible to make certain that Defendants were not violating the Court's stay order.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 27, 2023

/s/ Jason J. Fleischer
Jason J. Fleischer